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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHERYL JOHNSON NEMES,

Plaintiff,

No. C 07-04514 JSW

v.

BENJAMIN F PARKS, and DOES 1 through
100,**ORDER RE CLARIFICATION**

Defendants.

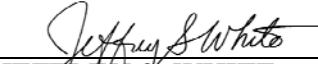
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On September 19, 2007, plaintiff Cheryl Johnson Nemes (“Plaintiff”) filed a document entitled Motion and Notice of Motion to Dismiss with Leave to Amend. Pursuant to Federal Rule of Civil Procedure 41, Plaintiff may dismiss the above-captioned action without leave of Court because Defendants have not yet filed an answer or a motion for summary judgment. *See* Fed. R. Civ. P. 41(a)(1). Pursuant to Federal Rule of Civil Procedure 15, Plaintiff may file an amended complaint without leave of Court. *See* Fed. R. Civ. P. 15(a) (“A party may amend the party’s pleading once as a matter of course at any time before a responsive pleading is served”). It is not clear from the document Plaintiff filed whether she was seeking to voluntarily dismiss this action or to file an amended complaint. Plaintiff is directed to file either a notice of voluntary dismissal or an amended complaint by no later than October 5, 2007. Plaintiff is hereby advised that if she does not clarify what relief she intended to seek by the document

1 entitled Motion and Notice of Motion to Dismiss with Leave to Amend by October 5, 2007, the
2 Court will construe her motion as a notice of voluntary dismissal and will close this case.

3 **IT IS SO ORDERED.**

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5 Dated: September 21, 2007


6 JEFFREY S. WHITE
7 UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CHERYL JOHNSON NEMES,

Case Number: CV07-04514 JSW

Plaintiff,

CERTIFICATE OF SERVICE

v.

BENJAMIN F PARKS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 21, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Cheryl Johnson Nemes
1000 Market Street
Suite 312
San Francisco, CA 94102Jennifer S Wang
US Attorney's Office
450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102-3495

Dated: September 21, 2007


Richard W. Wiking, Clerk
By: Jennifer Ottolini, Deputy Clerk